

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO.: 04-12317WGY

AMERICAN TOWER CORPORATION,
Plaintiff,

v.

J.L.B. CONSTRUCTION, INC., 21ST
CAPITAL CORPORATION, PRIME
COMMUNICATIONS, LLC, AMF
ELECTRICAL CONTRACTORS, INC.,
HEINZ CORPORATION, DANIEL
WENESS CONSTRUCTION,
WESTERN STATES TOWER, LLC,
WEST CENTRAL CONSULTING
SERVICES, INC., STEWART
ELECTRIC, INC., GLOBAL TOWER
SERVICE, ADVANCED LIGHTNING
TECHNOLOGY, LTD. and GULF
COAST STEEPLEJACK,
Defendants.

**MOTION TO STRIKE RESPONSIVE PLEADING OF JASON L. BENTLEY
ON BEHALF OF DEFENDANT CORPORATION J.L.B. CONSTRUCTION, INC.**

NOW COMES the Plaintiff American Tower Corporation (hereinafter "ATC") in the above-captioned matter and hereby moves this Honorable Court to strike the responsive pleading filed by Jason L. Bentley (hereinafter "Bentley"), on behalf of the Defendant J.L.B. Construction, Inc. (hereinafter "JLB"). In support hereof, the Plaintiff states as follows:

FACTUAL BACKGROUND

On or about November 1, 2004, the Plaintiff ATC filed a complaint for breach of

contract and interpleader under 28 U.S.C. § 1335 against the Defendant JLB and eleven (11) other defendants. On or about November 5, 2004, Bentley accepted service of the Summons and Complaint on behalf of the Defendant JLB. Thereafter, on November 10, 2004, Bentley filed a “Response to Claim” and a Motion for Change of Venue on behalf of JLB as its President. However, Bentley neither hired an attorney nor is he a licensed attorney. In fact, on November 16, 2004, the Court (Young, C.J.) denied Bentley’s Motion for Change of Venue on the grounds that an individual cannot represent a corporation.

LEGAL ANALYSIS

“Corporations, despite their pervasive role in our modern society, are not human beings. Although we are prone to regard them as living entities, they are only creatures of the state subject to government regulation and control. One of the time-hallowed restrictions on corporations has been that, in court proceedings, they must be represented by a licensed attorney.” *In re Las Colinas Development Corporation v. Walter Heller & Company of Puerto Rico*, 585 F.2d 7 Bankr. L. Rep. P. 67 (1978). Further, under Massachusetts law, “[c]orporations must appear and be represented in court, if at all, by attorneys.” *Driscoll v. T.R. White Company, Inc.*, 441 Mass. 1009, 805 N.E. 2d 482 (2004) citing *Varney Enters, Inc. V. WMF, Inc.*, 402 Mass. 79, 82, 520 N.E.2d 1312 (1988).

Based on the foregoing, and in accordance with the Court’s dismissal of Bentley’s Motion for Change of Venue, Jason L. Bentley, who is not a licensed attorney, cannot represent the Defendant J.L.B. Construction, Inc., and, therefore,

cannot file an answer on behalf of same.

WHEREFORE, the Plaintiff American Tower Corporation hereby moves to strike Jason L. Bentley's responsive pleading filed on behalf of the Defendant J.L.B. Construction, Inc.

Respectfully submitted,
AMERICAN TOWER CORPORATION,
By its attorneys,

/s/Gregory J. Aceto
Gregory J. Aceto
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